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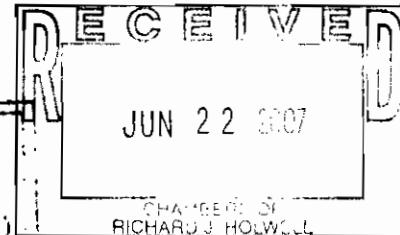
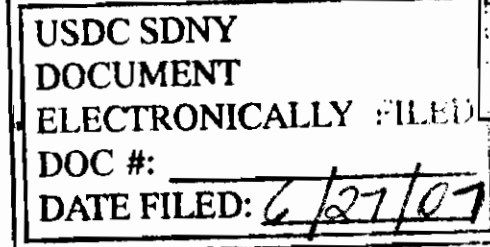
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June 22, 2007

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**VIA FACSIMILE**

Honorable Richard J. Holwell  
United States District Judge  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, NY 10007



**Re: John O. Myers v. HSBC Investments (USA) Inc., et al.**  
**07 Civ. 4078 (RJH)**

Dear Judge Holwell:

We represent the Defendants in the above-referenced matter. In accordance with Your Honor's Individual Practices, we submit the following letter to request a pre-motion conference. Defendants seek to file a motion: (i) pursuant to FRCP 12(b)(6) seeking dismissal of HSBC Finance Corporation, HSBC North America Holdings Inc., and HSBC Holdings plc., as improper parties to this action; and (ii) pursuant to FRCP 12(f) to strike certain allegations in the Complaint that purport to quote and reference settlement discussions which occurred between counsel for Plaintiff and counsel for Defendants.

*a. Procedural and Factual Background*

This is an action alleging age discrimination, retaliation, breach of contract and promissory estoppel commenced by a former employee of HSBC Investments (USA) Inc. ("HSBC Investments").

On December 12, 2006, Plaintiff was notified that his employment with HSBC Investments would be terminated. Plaintiff's last day of employment was January 27, 2007. Plaintiff claims, among other things, that Defendants discriminated against him on account of his age in terminating his employment and in failing to find him alternative employment within HSBC. Plaintiff further claims that Defendants retaliated against him after he filed a Charge of Discrimination with the EEOC ("Charge"). The Complaint was filed on May 24, 2007. It contains nine causes of action against HSBC Investments and related companies, HSBC Securities (USA), Inc., HSBC North America Holdings, Inc., HSBC Finance Corporation and HSBC Holdings, plc: (i) age discrimination under the Age Discrimination Employment Act ("ADEA"); (ii) age discrimination under the New York Executive Law ("N.Y. Exec. Law"); (iii) age discrimination under the New York City Administrative Code ("N.Y.C. Admin. Code"); (iv) unlawful retaliation under Title VII; (v) unlawful retaliation under the ADEA; (vi) unlawful

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retaliation under N.Y. Exec. Law; (vii) unlawful retaliation under N.Y.C. Admin. Code; (viii) promissory estoppel; and (ix) breach of contract. The parties stipulated to extend Defendants' time to move, answer or otherwise respond to the Complaint to July 3, 2007.<sup>1</sup>

*b. Improper Parties*

HSBC Finance Corporation, HSBC North America Holdings Inc. and HSBC Holdings plc, should be dismissed from this action because Plaintiff has not pled a single allegation of wrongdoing in the Complaint or any relevant act by these entities aside from their corporate relationship to HSBC Investments. *Colida v. Sony Corp. of Am.*, No. 04 Civ. 2093, 2004 U.S. Dist. LEXIS 14907, at \*5-6 (S.D.N.Y. July 29, 2004) (Holwell, J.) (dismissing Sony Corp., the parent company of the codefendant, as a defendant in a patent infringement case because plaintiff failed to establish that Sony Corp. had manufactured the infringing product). This case arises from the termination of Plaintiff's employment at HSBC Investments. HSBC Finance Corporation, HSBC North America Holdings Inc. and HSBC Holdings plc were not involved in the termination. Plaintiff does not allege that he applied for a position at any of these entities, and he did not. Although HSBC Finance Corporation, HSBC North America Holdings Inc., HSBC Holdings plc are related entities to HSBC Investments through a complex corporate tree, they are all separate and distinct corporate entities. Accordingly, Defendants respectfully request permission to file a motion dismissing these three parties.

*c. Settlement Discussions*

Defendants also seek to file a motion pursuant to FRCP 12(f) striking certain allegations from the Complaint that reference settlement discussions between Plaintiff's counsel, Blair C. Fensterstock and Richard Palmer, Associate General Counsel of Defendant HSBC Securities (USA) Inc. ("HSBC Securities"). Evidence of conduct or statements made in settlement negotiations is not admissible to prove liability for the claim or to show the validity of the claim and "may be stricken from a complaint as immaterial and potentially prejudicial." *Smith v. New Line Cinema*, No. 03 Civ. 5274, 2004 U.S. Dist. LEXIS 18382, at \*15 (S.D.N.Y. Sept. 8, 2004); *Kelly v. L.L. Cool J.*, 145 F.R.D. 32, 40 (S.D.N.Y. 1992). Here, all conversations between Mr. Palmer and Mr. Fensterstock referred to in the Complaint arose after Mr. Fensterstock sent a letter dated January 26, 2006 to HSBC Securities claiming age discrimination and that HSBC failed to follow its employment policies. The letter sought "to resolve the situation" by payment of a significant sum of money plus attorney's fees "to compensate [John Myers] adequately" for the alleged violation of his rights and the law." Complaint, at ¶¶ 78-81. The alleged statements by Richard Palmer were made in discussions after receipt of the letter

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<sup>1</sup> Richard Palmer, Esquire, Associate General Counsel to HSBC Securities (USA) Inc., accepted service of the Complaint on behalf of all Defendants on May 25, 2007.

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from Mr. Myers' counsel. They are inadmissible settlement discussions that should be stricken from the Complaint.

In conclusion, Defendants request that Your Honor schedule a pre-motion conference for the purpose of addressing Defendants' request for permission to file a motion to dismiss.

If the Court has any questions concerning the content of this letter or the requests, I can be reached at the number listed above.

Respectfully yours,

*M. Christine Carty*

M. Christine Carty  
For SCHNADER HARRISON SEGAL & LEWIS LLP

MCC:sh

cc: Blair C. Fensterstock  
Attorney for Plaintiff

*A pre-motion conference  
shall be held on July 26, 2007  
at 10:30 AM*

*SO ORDERED*

*[Signature]*

*USDT*

*7/26/07*

*NEXT PTS  
7/26/07 at 10:30 AM*